

BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. PSY-2008-2
JAMES ROBERT PHILLIPS, Ph.D.,)	
License No. PSY-305,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
)	

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WHEREAS, information has been received by the Idaho State Board of Psychologist Examiners (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against James Robert Phillips, Ph.D. ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the practice of psychology in the State of Idaho in accordance with title 54, chapter 23, Idaho Code.

A.2. The Board has issued License No. PSY-305 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 23, Idaho Code and the Board's rules at IDAPA 24.12.01, *et seq.*

A.3. Respondent has contracted to provide psychological evaluations for a local agency. As part of his contract with the agency, Respondent was requested to document for the agency client DM's IQ as part of the agency's assessment to determine DM's eligibility for developmental disabilities services. The agency also requested that Respondent evaluate DM to determine continued eligibility for psychotherapy services.

A.4. On or about January 6, 2006, Respondent conducted two evaluations on

DM, an evaluation for psychotherapy services and an intellectual evaluation. Each evaluation provided that the purpose of the evaluation was part of the assessment process to determine continued eligibility for services.

A.5. The DSM-IV diagnoses differ on the evaluations as follows:

	Psychotherapy Evaluation	IQ Evaluation
Axis I	295.30 Schizophrenia, Paranoid Type 303.90 Alcohol Dependence	317 Mild Mental Retardation
Axis II	V71.09 No Diagnosis	V71.09 No Diagnosis
Axis III	Deferred to physician	Deferred to physician
Axis IV	Problems with primary support group Problems related to the social environment	Problems related to the social environment Educational problems
Axis V	GAF = 40 (current)	GAF = 45 (current)

A.6. The evaluations also reflect different birth dates for DM, different global functional assessment scores, no diagnosis on Axis II of Mild Mental Retardation for the psychotherapy evaluation, on the IQ evaluation the diagnosis of Mild Mental Retardation is placed on Axis I but should be placed as an Axis II diagnosis, and on Axis IV (psychosocial environmental problems) there are different categories listed on both evaluations, contrary to DSM-IV requirements.

A.7. Respondent's administration of the Wechsler Adult Intelligence Test for DM contains a number of scoring and administrative inaccuracies, including Respondent's failure to record DM's responses for each of the vocabulary, similarities, information and comprehension subtests; on picture completion, the score should be 19 versus what was calculated as 18; on the block design, item 9 is incorrectly added to DM's score so the resulting score of 22 should be a score of 18; and on the matrix reasoning subtest, the score should be 11 rather than 9.

A.8. The allegations of Paragraphs A.3 through A.7, if proven, may violate the laws and rules governing the practice of psychology, specifically Idaho Code § 54-

2309(d) (violation of the ethical standards of the American Psychological Association) and APA Code of Ethics 9.02(a) (psychologists administer, adapt, score, interpret, or use assessment techniques, interviews, tests, or instruments in a manner and for purposes that are appropriate) and constitute grounds for disciplinary action against Respondent's license to practice psychology in the State of Idaho.

B. Waiver of Procedural Rights

I, James Robert Phillips, Ph.D., by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and acknowledge the allegations pending before the Board, as stated in Section A, Paragraphs A.3 through A.7. I further understand that these allegations constitute cause for disciplinary action affecting my license to practice psychology in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of psychology in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. In entering into this Stipulation, I do not admit that a violation occurred but I desire to resolve and conclude the administrative process. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. Respondent shall pay investigative costs and attorney fees in the amount of Six Hundred Eighty-Seven and No/100 Dollars (\$687.00) within thirty (30) days of the entry of the Board's Order.

C.2. Respondent shall submit psychological evaluations that are performed by

Respondent following the Board's entry of this Consent Order to a supervisor, who is pre-approved by the Board, for review until such time as: (1) the supervisor finds that five (5) psychological evaluations performed by Respondent after entry of this Consent Order for five (5) different clients comply with the APA Code of Ethics adopted by the Board pursuant to Board Rule 004; and (2) the supervisor provides a report to the Board stating that, in the supervisor's opinion, Respondent is qualified to perform independent psychological evaluations/assessments; and (3) the Board reviews the supervisor's report and concludes that Respondent has satisfied the requirements of this paragraph C.2.

C.3. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.4. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be null and void, and any admissions made in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs

this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

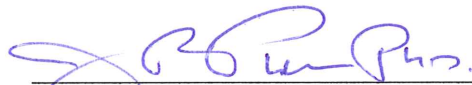
E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or

otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 30th day of September, 2008.



James Robert Phillips, Ph.D.
Respondent

APPROVED AS TO FORM:

DATED this 30 day of September, 2008.



Edwin L. Litteneker
Attorney for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 22nd day of October, 2008.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Emily A. Mac Master
Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-2305, the foregoing is adopted as the decision of the Board of Psychologist Examiners in this matter and shall be effective on the 20th day of November, 2008. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF PSYCHOLOGIST EXAMINERS

By Barney Greenspan, Ph.D.
Barney Greenspan, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

James Robert Phillips, Ph.D.
532 Bryden Avenue
Lewiston, ID 83501

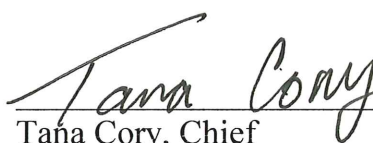
- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Edwin L. Litteneker, Esq.
P.O. Box 321
Lewiston, ID 83501-0321

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail



Tana Cory, Chief
Bureau of Occupational Licenses